



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
05/011,100	04/29/99	10/05/99	APP-124744P

ELI LILLY  
OF PLASTICS  
ONE PLASTIC AVENUE  
MILLSFIELD, MA 01201

INDEXED

EXAMINER

10/05/99

ART UNIT

PAPER NUMBER

1214

DATE MAILED:

04/05/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER OF  
PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APR X 4 1999

GROUP 100

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 23

Application Number: 08/841027  
Filing Date: 04/29/97  
Appellant(s): GAGGAR ET AL

KENNETH S. WHEELock  
For Appellant

**EXAMINER'S ANSWER**

This is in response to appellant's brief on appeal filed February 25, 1999.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

Art Unit:

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

The rejection of claims 2-7 , 9 and 10 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

Art Unit:

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

4883835	BUYSCH ET AL	11/89
5204394	GOSENS ET AL	4/93
5643981	YANG ET AL	7/97

(Filed 11/97)(10)

***Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2-7 , 9 and 10 stand rejected under 35 U.S.C. 103(a) over the combined teachings of Yang et al, Gosens et al and Buysch et al. This rejection is set forth in prior Office action, Paper No. 11.

***(11) Response to Argument***

The claims' stipulation that "said composition retains about 80 % of the original Izod impact strength after one week aging at 63 C at 100 % relative humidity" is contrary to Appellant's contention (Appeal Brief: page 11, mid -page) not a significant limitation . Firstly the claims are direct to a composition which by its very nature is not limited to such condition of exposure such that the property described need be considered in judging

Art Unit:

in a humid atmosphere would be a significant factor in applications which the flame retardant composition would ordinarily be expected to be used as an article of manufacture.

The chart type analysis on page 6 of the Appeal Brief which purports to establish distinction of the types of ingredients present in the instant composition over those of the references' flame retardant polycarbonate/ABS resin compositions represents an attempt to obfuscate the fact that all of the appealed claims encompass mono as a possible alternative to di phosphates as the suitable phosphate (generic claim 9- "a phosphate"); organo halide flame retardants are **not** precluded from the compositions as evinced by the disclosure in the specification on page 14, lines 4-7 in which their added presence is said to be preferred; and Gosens specifically recites at col.2, line 16 as an optional ingredient, the presence of perfluoropolymers' polymers such as polytetrafluoroethylene (Teflon) as an anti-drip modifier.

It is known as related by Yang et al (col.1, lines 1-2 ) that ABS type resins are generally employed in PC compositions for enhancing impact strength properties, such addition being made independently of the presence or absence of flame retardants. This is why a separate non rubber grafted type styrenic resin such as polystyrene per se or its acrylonitrile copolymer (SAN) is often added to provide some rigidity. See Gosens at col 2, "styrene polymer and/ or styrene graft"; also col. 3, lines 7-10 and 22-23, col.4, lines 1-29 and the ABS + SAN compounded PC formulations in Tables B and C in cols. 7 and 8.

Art Unit:

Since Appellants traversal finds no error in the examiner's computations on which basis she held that since ex. 1 of **Yang et al's composition contains a rubber content of 7.8 %** relative to 80 parts PC, 18 parts ABS, 17 parts phosphate and 1.0 part Teflon with rigid styrene resin being optionally present (0-20 % wt, applicants being 1-10 % wt.), **the concentration range of the rubber component** ( which is present within the grafted styrenic resin component )**stated here of 6- 12%** by weight of the composition in a PC /grafted styrenic resin/rigid styrenic resin/phosphate flame retardant composition is neither novel or nor shown by any evidence to manifest the exhibition of unexpected flame-proofing properties irrespective of the composition's level of moisture exposure.

Application/Control Number: 08/841027

Page 6

Art Unit:

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

*Vernice P. Hohe*

vph

April 2, 1999

*Approved*  
*JR*

LI HUA LUO

GE PLASTICS  
ONE PLASTICS AVENUE  
PITTSFIELD MA 01201